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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,009	05/30/2001	Hisashi Kashima	JP920000069US1	8419

7590 10/24/2003

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EXAMINER

SMITH, CAROLYN L

ART UNIT PAPER NUMBER

1631

DATE MAILED: 10/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/870,009

Applicant(s)

KASHIMA ET AL.

Examiner

Carolyn L. Smith

Art Unit

1631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 16.

Claim(s) rejected: 5, 8-12 and 15-27.

Claim(s) withdrawn from consideration: _____.

8. ☒ The proposed drawing correction filed on 16 October 2003 is a) ☐ approved or b) ☒ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2003.
10. ☐ Other: _____

Continuation of 2. NOTE: The objections and rejections set forth in the final rejection (claim objection of claim 16; 35 USC 101 rejection of claims 5, 8-12, and 15-27; 35 USC 112, first paragraph rejection of claim 27, 35 USC 112, second paragraph rejections of claims 17 and 24; and 35 USC 102 rejections of all pending claims 5, 8-12, and 15-21) are maintained due to the non-entry of the proposed amendment. The proposed amendments of claims 8 and 11 ("added to and"), claim 18 ("comprises a plurality of sequences having a plurality of types of patterns embedded at predetermined locations in said second portion"), and claim 27 ("corresponds to a source of") would have been rejected under 35 USC 112, 1st paragraph due to the presence of NEW MATTER. A further search would have been required for the new amendments.

The drawings filed 10/16/03 are untimely filed (without an proper extension of fees). If they had been entered they would have been objected to under 35 USC 132 due to the presence of NEW MATTER. This objection could be overcome by deleting these Figures.

If the amendments had been entered, the claim objection to claim 16 and NEW MATTER rejection of claim 27 under 35 USC 112, first paragraph, would have been withdrawn. However, the rejections under 35 USC 101, 35 USC 112, second paragraph would have been maintained. A further search would have been required to determine if 35 USC 102 would have been maintained. .

Continuation of 5. does NOT place the application in condition for allowance because: of the presence of NEW MATTER (see Number 2 above), the requirement for further search for the amended claims, and the amendments do not place the application in better form for appeal. In addition, the three articles listed in the IDS, filed 6/4/03, were not considered as they are written in a foreign language. A translated copy of these articles must be presented for them to be considered by the Examiner.

Ardin H. Marschel
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